

Remarks

This is in response to the non-final Office Action mailed on September 22, 2004. Claims 1 and 17 are amended to broaden their scope. Two replacement sheets including Figures 1-3 and a Terminal Disclaimer are included at the Appendix hereto. Claims 1-17, 39, and 40 remain pending, with claims 1 and 17 being independent. Reconsideration and allowance are respectfully requested for at least the following reasons.

I. Drawings

In section 1 of the Action, the drawings were objected to because the blocks in Figures 1 and 2 did not include legends. Attached at the Appendix hereto are two replacement drawing sheets, in compliance with 37 CFR 1.121(d), including Figures 1-3. Entry of the replacement sheets and removal of the objection are respectfully requested.

II. Double Patenting

A. Statutory

In section 3 of the Action, claims 18-38 were rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 17-37 of U.S. Patent No. 6,774,802. It is respectfully noted that claims 18-38 were canceled by preliminary amendment in the transmittal included with the filing of this continuation application. In addition, the listing of the claims included herewith lists claims 18-38 as being canceled. Reconsideration and removal of the rejection are therefore respectfully requested.

B. Non-Statutory

In section 5, claims 1-17, 39, and 40 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,774,802. This rejection is respectfully traversed, and the correctness of the rejection is not conceded.

In the interest of moving this application into condition for allowance, a Terminal Disclaimer addressing this rejection is attached at the Appendix hereto. Reconsideration and allowance of claims 1-17, 39, and 40 are therefore respectfully requested.

III. Claim Objections

In section 6 of the Action, claims 39 and 40 were objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claim 39 depends from claim 1, and claim 40 depends from claim 17. Claims 1 and 17 are amended to remove the subject matter recited in claims 39 and 40. Reconsideration and removal of the objection are therefore respectfully requested.

IV. Claim Rejections - 35 U.S.C. § 103

In section 8 of the Action, claims 1-17, 39, and 40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Glidewell et al. (U.S. Patent No. 5,319,698) in view of Kass et al. (U.S. Patent No. 5,189,392) and Breed et al. (U.S. Patent No. 6,179,326). This rejection is respectfully traversed, and reconsideration is requested for at least the following reasons.

Claim 1 is directed to a detection and evacuation system for use in a home. The system comprises at least one sensor assembly for detecting contamination of a contaminant in ambient air, a central processor, at least one deactivation device, and at least one activation device. Claim 17 is directed to a detection system comprising a plurality of sensor means, a central monitoring means, a means for activating an air evacuation device, and a means for deactivating an appliance.

To establish a *prima facie* case of obviousness, three basic criteria must be met: 1) suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine teachings; 2) a reasonable expectation of success; and 3) the references, when combined must teach or suggest all the claim limitations. See In re Vaeck, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP § 2143 *et seq.*

It is respectfully suggested that there is no motivation to combine Glidewell, Kass, and Breed. Glidewell discloses a security system for detecting and signaling the presence of abnormal security or hazardous conditions. Glidewell, abstract. Kass discloses a safety apparatus for shutting off a unit upon detecting a predetermined condition. Kass, abstract.

In contrast, Breed is directed to an airbag deployment system in a vehicle. The sensor system in Breed does not detect conditions such as those disclosed in Glidewell and Kass, but instead is configured to detect the occurrence of a vehicular crash. In Breed, the triggering event

-- that is, the vehicular crash -- causes the resulting poor air quality condition in the vehicle. See Breed, col. 34, l. 18 - col. 35, l. 46. In other words, the system in Breed is designed to respond to a particular event, and it is not designed to monitor or sense conditions independent of that particular event.

Accordingly, one skilled in the art would not be motivated to combine Glidewell and Kass with Breed because Breed relates to an airbag deployment in a vehicle and utilizes a sensor system that is fundamentally different from either Glidewell and Kass. It is therefore respectfully suggested that any such a combination is based on improper hindsight. See MPEP 2145(X)(A).

Reconsideration and allowance of claims 1 and 17, as well as claims 2-16, 39, and 40 that depend therefrom, are therefore respectfully requested.

V. Allowable Subject Matter

In section 9 of the Action, claims 18-38 were noted as being allowed. As stated above, claims 18-38 were previously canceled.

In section 10 of the Action, claims 11-14 were noted as being allowable. Applicants appreciate the Examiner's assistance in identifying allowable subject matter. All claims are in condition for allowance.

VI. Conclusion

The remarks set forth above provide certain arguments in support of the patentability of the pending claims. There may be other reasons that the pending claims are patentably distinct over the cited references, and the right to raise any such other reasons or arguments in the future is expressly reserved.

Favorable reconsideration in the form of a Notice of Allowance is respectfully requested.
Please contact the undersigned attorney with any questions regarding this application.

Respectfully submitted,
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Attachment: Appendix

APPENDIX

Attached hereto are:

- two replacement sheets including Figures 1-3; and
- a Terminal Disclaimer.